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MEMORANDUM

TO: Service List, D.T.E. 97-88/97-18 [Phase II]
FROM: Kevin F. Penders, Hearing Officer
DATE: February 21, 2003
RE: Request for Comments
CC: Mary Cottrell, Secretary

On February 6, 2001, the Department of Telecommunications and Energy ("Department") issued a procedural schedule for the purpose of receiving comments on the Motion for Reconsideration from New England Public Communications Council, Inc., ("NEPCC's Motion") regarding Public Access Smart Lines, D.P.U./D.T.E. 97-88/97-18 [Phase II] (November 28, 2000) ("Order"), as well as investigating the Total Service Long-Run Incremental Cost ("TSLRIC") study filed on January 29, 2001, by Verizon Massachusetts ("Verizon") in accordance with the Department's Order. On August 8, 2001, the Department issued D.P.U./D.T.E. 97-88/97-18-A [Phase II] ("Order on Reconsideration") to rule on NEPCC's Motion. In its Order on Reconsideration, the Department found that: 1) Verizon should recalculate its TSLRIC study based on an application of the new services test to its payphone local usage rate; 2) that the Department erred in its initial determination regarding primary interexchange carrier charges ("PICC"); and 3) that interim rates were not warranted. The Department ordered Verizon to file an amended TSLRIC study by September 5, 2001. Evidentiary hearings were held in this proceeding on November 14, 2001.

On May 8, 2002, the Department issued its Order in Investigation by the Department of Telecommunications and Energy on its own Motion into the Appropriate Regulatory Plan to succeed Price Cap Regulation for Verizon New England, Inc., d/b/a Verizon Massachusetts' intrastate retail telecommunications services in the Commonwealth of Massachusetts,

D.T.E. 01-31-Phase 1 (2002). In D.T.E. 01-31-Phase 1, the Department determined that while certain services, including PAL and PASL, had been historically treated as retail services to be included in Verizon's retail tariffs, they are "exclusively intended for purchase by other carriers as wholesale services rather than by end-users as retail services."

D.T.E. 01-31 at 36. In a June 5, 2002 compliance filing, Verizon proposed new UNE-based rates for PAL and PASL services, based on then existing TELRIC costs. Both Verizon and NEPCC filed comments on those new rates in the D.T.E. 01-31 docket. On February 13, 2003, Verizon filed new UNE rates in compliance with the Department's Orders in D.T.E. 01-20.¹ The Hearing Officer hereby directs Verizon to file in this docket by Monday, March 3, 2003, proposed PAL and PASL rates based on the February 13, 2003, D.T.E. 01-20 TELRIC filing, with supporting workpapers and a discussion of how the PAL and PASL rates are derived.

In comments in D.T.E. 01-31, the NEPCC and Verizon address the question of whether TELRIC-based rates for PAL and PASL services are permitted under the Telecommunications Act of 1996 and the FCC's implementing orders. Because those comments are based the former TELRIC costs/rates, the Hearing Officer seeks comment on the following questions on: (1) whether the proposed TELRIC-based PAL and PASL rates (to be filed by Verizon in this docket on Monday, March 3, 2003, are consistent with the Telecommunications Act of 1996 and the Federal Communications Commission's Payphone Orders,² including the Wisconsin Order;³ and (2) assuming that Verizon's proposed PAL and PASL rates are consistent with federal law and are in all respects just and reasonable, what issues previously under consideration in this proceeding have been rendered moot, thus not requiring a finding; or conversely, what issues still require a Department finding in this proceeding.

¹ Investigation by the Department of Telecommunications and Energy on its own motion into the appropriate pricing, based upon total element long-run incremental costs, for unbundled network elements, and the appropriate avoided cost discount for Verizon New England, Inc., d/b/a Verizon Massachusetts' resale services in the Commonwealth of Massachusetts, D.T.E. 01-20.

² In the Matter of Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996, 11 FCC Rcd 20, 541 (1996), 11 FCC Rcd 21, 233 (1996), In the Matter of Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996, 12 FCC Rcd 20, 997 (Com. Car. Bur. 1997), and 12 FCC Rcd 21, 370 (Com. Car. Bur. 1997)(collectively referred to as the Payphone Orders)

³ In the Matter of Wisconsin Public Service Commission Order Directing Filings, 15 FCC Rcd. 9978 (Com. Car. Bur. 2000)("Wisconsin Order").

Any Parties wishing to submit written comments on Verizon's filing should file as follows: an original with Mary L. Cottrell, Secretary; three (3) copies with the Hearing Officer, Kevin Penders; and a copy to the service list in this proceeding. The original and copies for Department staff should be delivered to the Department of Telecommunications and Energy, One South Station, Boston, Massachusetts 02110, not later than the close of business (5:00 p.m.) Friday, March 14, 2003. Reply Comments, if any, will be due to the Department no later than Friday, March 21, 2003.